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PCT LEGAL ADMINISTRATION

TRASK BRITT
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In re Application of: :
JONES, David, H., A., et al. : DECISION ON SECOND RENEWED
Application No. 10/644,256 : PETITION
Filed: August 20, 2003 :
Attorney Docket No. 2578-6077US :

This is a decision on the second renewed petition under 37 CFR 1.78(a)(3), (a)(6), and 1.55(c) filed May 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to a number of prior-filed applications, as set forth in the concurrently filed amendment.

The petition is DISMISSED without prejudice

As discussed in the decisions previously mailed herein, a grantable petition under 37 CFR 1.78(a)(3), (a)(6) and 1.55(c) require that appropriate references to the prior filed applications be added to the application. The present second renewed petition was accompanied by an amendment seeking to add the required references to the prior-filed applications. However, on March 15, 2010, a final Office Action was mailed herein rejecting the remaining claims, and the examiner has indicated that the proposed amendment submitted with the present renewed petition would not be entered because the amendment raises new issues which would require further consideration and/or search. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file an amendment that *prima facie* places the application in condition for allowance, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this petition must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

The application is being referred to the examiner for appropriate treatment of the amendment filed with the present petition.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration